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Attorneys for Defendants
AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CLARISE JOY STEMLEY,
Plaintiff,

v.

AMERICA WEST AIRLINES, INC.; US
AIRWAYS, INC.; and DOES 1
THROUGH 25,

Defendant.

No. C08-02040 EMC

**PROOF OF FILING OF DEFENDANTS'
NOTICE OF FILING OF NOTICE OF
REMOVAL OF ACTION TO FEDERAL
COURT**

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441(b), on April 21,
2008, Defendants AMERICA WEST AIRLINES, INC. and U.S. AIRWAYS,
INC. ("Defendants"), by their undersigned attorneys, filed a Notice of Filing of Notice of
Removal of Action to Federal Court with the Clerk of the California Superior Court, in
and for the County of Alameda, a copy of which is attached hereto. Defendants also
served Plaintiff with the Notice of Filing of Notice of Removal of Action to Federal Court
including the following attachments:

Exhibit 1: Notice of Removal of Action by Defendants American West Airlines, Inc. and U.S. Airways, Inc.

Exhibit A: Summons and Plaintiff's Complaint;

Exhibit B: Summons;

Exhibit C: Defendant's Request for Statement of Damages Pursuant to Code of Civil Procedure § 425.11;

Exhibit D: Plaintiff's Response to Statement of Damages

Exhibit E: Case No. RG08371442 — Civil Case Cover Sheet; Notice of Case Management Conference and Order; Notice of Judicial Assignment for All Purposes

Exhibit 2: Order Setting Initial Case Management Conference and ADR Deadlines; Standing Order for Civil Practice Cases Assigned for All Purposes to Magistrate Judge Edward M. Chen; Standing Order for All Judges of the Northern District of California - Contents of Joint Case Management Statement; U.S. District Court, Northern California - ECF Registration Information Handout; Notice of Assignment of Case to a United States Magistrate Judge for Trial; Consent to Proceed Before a United States Magistrate Judge; Declination to Proceed Before a Magistrate Judge and Request for Reassignment to a United States District Judge; U.S. District Court, Northern California of California, Drop Box Filing Instructions; Sheet with Judge's name and initials and location.

DATED: April 21, 2008

HANSON BRIDGETT LLP

By:


PATRICK GLENN

KEVIN D. REESE

JAHMAL T. DAVIS

Attorneys for Defendants
AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

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Facsimile: (415) 541-9366

Attorneys for Defendants
AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

**ENDORSED
FILED
ALAMEDA COUNTY**

APR 21 2008
CLERK OF THE SUPERIOR COURT
By Esther Coleman, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

CLARISE JOY STEMLEY,

Plaintiff,

v.

AMERICA WEST AIRLINES, INC.; US
AIRWAYS, INC.; and DOES 1
THROUGH 25,

Defendant.

No. RG08371442

**DEFENDANTS' NOTICE OF FILING OF
NOTICE OF REMOVAL OF ACTION TO
FEDERAL COURT**

TO PLAINTIFF CLARISE JOY STEMLEY AND HER ATTORNEYS OF RECORD
AND TO THE CLERK OF THE SUPERIOR COURT, IN AND FOR THE COUNTY OF
ALAMEDA:

PLEASE TAKE NOTICE THAT Defendants have filed a Notice of Removal of the
above-captioned action from the Superior Court of the State of California, County of
Alameda, on April 18, 2008. A true and correct copy of Defendants' Notice of Removal
is attached hereto and incorporated herein as **Exhibit 1**. The proceedings have been
removed from this Court to the United States District Court for the Northern District of
California as Case No. C08-02040-EMC and shall be governed hereafter by the District

Court's orders, attached collectively hereto as **Exhibit 2**.

DATED: April 21, 2008

HANSON BRIDGETT LLP

By: 

PATRICK GLENN

KEVIN REESE

JAHMAL T. DAVIS

Attorneys for Defendants

AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

PROOF OF SERVICE

Clarise Joy Stemley v. America West Airlines, Inc., et al.

Case No.: RG08371442

I, Joanne Leong, the undersigned, declare that I am a resident of the State of California. I am over the age of 18 years and not a party to the action entitled *Clarise Joy Stemley v. America West Airlines, Inc., et al.*; that my business address is 425 Market Street, 26th Floor, San Francisco, California 94105. On April 21, 2008, I served a true and accurate copy of the document(s) entitled:

**DEFENDANTS' NOTICE OF FILING OF NOTICE OF REMOVAL OF ACTION TO
FEDERAL COURT**

on the party(ies) in this action by placing said copy(ies) in a sealed envelope, each addressed to the last address(es) given by the party(ies) as follows:

Curtis G. Oler, Esq.
Law Offices of Curtis G. Oler
P.O. Box 15083
San Francisco, CA 94115
(415) 346-8015
(415) 346-8238 fax

Attorneys for Plaintiff
CLARISE JOY STEMLEY



(By Express Mail pursuant to Code of Civil Procedure section 1013.) I deposited each sealed envelope, with the postage prepaid, to be delivered via United States Postal Service, Express Mail to the party(ies) so designated on the service list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on April 21, 2008 at San Francisco, California.

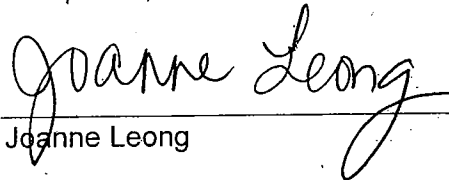

Joanne Leong

EXHIBIT 1

HANSON BRIDGETT LLP
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pglenn@hansonbridgett.com
KEVIN REESE - 172992
kreese@hansonbridgett.com
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Telephone: (415) 777-3200
Facsimile: (415) 541-9366

ORIGINAL
FILED

APR 18 2008

E-filing

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Attorneys for Defendants
AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

EMC

CLARISE JOY STEMLEY,

Plaintiff,

v.

AMERICA WEST AIRLINES, INC.; US
AIRWAYS, INC.; and DOES 1
THROUGH 25,

Defendant.

NO. 08-02040

NOTICE OF REMOVAL OF ACTION

ADR

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE THAT Defendants AMERICA WEST AIRLINES, INC.
and U.S. AIRWAYS, INC. (hereinafter collectively "Defendants") hereby remove to this
Court, on the basis of diversity jurisdiction, the state court action described below:

1. State Court Action: On February 14, 2008, Plaintiff CLARISE JOY
STEMLEY (hereinafter "Plaintiff" or "Stemley") commenced this action in the Superior
Court for the State of California, in and for the County of Alameda, entitled *Clarise Joy
Stemley v. America West Airlines, Inc.; US Airways, Inc.*, Case No. RG08371442. A true
and correct copy of the Summons and Verified Complaint filed by Plaintiff is attached

- 1 -

NOTICE OF REMOVAL OF ACTION

1433416.1

EXHIBIT 1

1 hereto as **Exhibit A**;

2 2. Timely Removal: Defendants were served with a copy of the Summons
3 and Verified Complaint on March 21, 2008. A true and correct copy of the Summons
4 served upon Defendants is attached hereto as **Exhibit B**;

5 3. Answer: Defendants have not filed an Answer to the Complaint but will
6 appropriately respond pursuant to Federal Rule of Civil Procedure 81(c) after the
7 removal of this action;

8 4. Jurisdiction: This action is a civil action of which this Court has original
9 jurisdiction under 28 U.S.C. section 1332, and is one that may be removed to this Court
10 by Defendants pursuant to the provisions of 28 U.S.C. section 1441(b) in that it is a civil
11 action between citizens of different states and the matter in controversy exceeds the
12 sum of \$75,000 exclusive of interest and costs;

13 5. Citizenship: Complete diversity of citizenship exists in that Plaintiff is a
14 resident of the State of Florida. Defendant U.S. Airways, Inc. was, at the time of the
15 filing of this action, and still is, a corporation incorporated under the laws of the State of
16 Delaware, having its principal place of business in the State of Arizona. Defendant
17 America West Airlines, Inc. was, at the time of the filing of this action, and still is, a
18 limited liability company registered under the laws of the State of Delaware and having
19 its principal place of business in the State of Arizona.

20 6. Request for Statement of Damages: On March 31, 2008, Defendants
21 served upon Plaintiff a Request for Statement of Damages pursuant to California Code
22 of Civil Procedure section 425.11. A copy of the Request for Statement of Damages and
23 accompanying proof of service is attached hereto as **Exhibit C**. On April 16, 2008,
24 Plaintiff served upon Defendants Plaintiff's Response to Defendants' Request for
25 Statement of Damages. A copy of Plaintiff's Response to Defendants' Request for
26 Statement of Damages and the accompanying proof of service is attached hereto as
27 **Exhibit D**;

28 ///

1 7. Amount in Controversy: The Complaint seeks damages for three causes
2 of action, including race discrimination, disability discrimination and denial of medical
3 leave Family Rights Act, but it does not set forth the amount in controversy. In response
4 to Defendants' Request for Statement of Damages, Plaintiff certified that she seeks
5 damages for loss of earnings in the amount of \$65,000. Plaintiff also seeks damages for
6 future earnings, pain and suffering, punitive damages, and attorney's fees and costs, all
7 of which have yet to be ascertained. Thus, Defendants reasonably believe that the
8 amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.
9 See, *White v. FCI USA, Inc.* (5th Cir. 2003) 319 F.3d 672, 674 (Court determined it was
10 facially apparent that Plaintiff's wrongful termination claim exceeded \$75,000 based on
11 her "lengthy list of compensatory and punitive damages," including loss of pay, impaired
12 earning capacity, emotional distress, and a request for attorneys' fees.);

13 8. Venue: Venue lies in the United States District Court for the Northern
14 District of California in that a substantial part of the alleged events or omissions on which
15 Plaintiff's claims are based occurred in Oakland, California. 28 U.S.C. §1391(b);

16 9. Intradistrict Assignment: Pursuant to Civil L.R. 3-2(d), this action is proper
17 in the Oakland Division because the action arose in the County of Alameda;

18 10. Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal is being
19 filed with the Clerk of the Superior Court of the State of California, County of Alameda;

20 11. Pursuant to 28 U.S.C. §1446(d), Defendants are providing written notice to
21 Plaintiff;

22 12. State Court Documents: Pursuant to the provisions of 28 U.S.C. §1446(a),
23 Defendants attach herewith, and incorporate by reference, the following documents,
24 which are all process, pleadings, and orders served on Defendants and filed in the
25 Superior Court of the State of California in and for the County of Alameda prior to the
26 filing of this Notice of Removal:

27 a. Summons and Plaintiff's Verified Complaint: Alameda County
28 Superior Court, Case No. RG08371442 (**Exhibit A**);

b. Civil Case Cover Sheet, Notice of Case Management Conference
and Order, and Notice of Judicial Assignment for All Purposes: Alameda County
Superior Court, Case No. RG08371442 (**Exhibit E**);

13. Service: Written Notice to Plaintiff and Proof of Service of the filing of this
Notice of Removal by Defendants will be served upon all parties as required by law.

WHEREFORE, Defendants respectfully request that this action now proceed
against Defendants in this Court as an action properly removed.

DATED: April 18, 2008

HANSON BRIDGETT LLP

By: 

PATRICK GLENN

KEVIN D. REESE

JAHMAL T. DAVIS

Attorneys for Defendants

AMERICA WEST AIRLINES, INC. and

U.S. AIRWAYS, INC.

EXHIBIT A

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND
DOES 1 THROUGH 25

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CLARISE JOYSTEMLEY

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

FEB 14 2008

CLERK OF THE SUPERIOR COURT

[Signature]

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA
(El nombre y dirección de la corte es): COUNTY OF ALAMEDA
1225 FALLON STREET
OAKLAND, CALIFORNIA 94612

CASE NUMBER: **RG08371442**
(Número del Caso)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115

Telephone: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: **FEB 14 2008**
(Fecha)

FAT S. SWEETEN

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

America West Airlines Inc

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☒ by personal delivery on (date): **3-21-08**

(SEAL)

EXHIBIT A

(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND
DOES 1 THROUGH 25ENDORSED
FILED
ALAMEDA COUNTY

FEB 14 2008

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CLARISE JOYSTEMLEY

CLERK OF THE SUPERIOR COURT

B. [Signature]

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA
(El nombre y dirección de la corte es): COUNTY OF ALAMEDA
1225 FALLON STREET
OAKLAND, CALIFORNIA 94612

CASE NUMBER: RG08371442
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115

Telephone: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: FEB 14 2008
(Fecha)

PAT S. SWEETEN

Clerk, by
(Secretario)Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

US Airways, Inc

- 3.
- ☒
- on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
- ☐ other (specify):

- 4.
- ☒
- by personal delivery on (date):

3-21-08

CURTIS G. OLER (Bar No. 63689)
 LAW OFFICES OF CURTIS G. OLER
 Post Office Box 15083
 San Francisco, California 94115
 Telephone: 415 346-8015
 Facsimile: 415 346-8238

Attorney for Plaintiff
 CLARISE JOY STEMLEY

ENDORSED
 FILED
 ALAMEDA COUNTY
 FEB 14 2008
 CLERK OF THE SUPERIOR COURT
 By *[Signature]*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF ALAMEDA
 UNLIMITED JURISDICTION

RG08371442

CLARISE JOY STEMLEY,

Plaintiff,

vs.

AMERICA WEST AIRLINES, INC.;
 US AIRWAYS, INC.; and
 DOES 1 THROUGH 25,

Defendants.

NO. _____

COMPLAINT FOR DAMAGES

Government Code Section 12940, *et seq*

DEMAND FOR JURY TRIAL

Plaintiff, CLARISE JOY STEMLEY, files this Complaint and complains of the named Defendants, and each of them, jointly and severally, and for causes of action, alleges as follows:

FACTS COMMON TO ALL CAUSES OF ACTION

1. Plaintiff, CLARISE JOY STEMLEY, is a former employee of Defendants AMERICA WEST AIRLINES, INC., and US AIRWAYS, INC.

2. Defendant AMERICA WEST AIRLINES, INC., is a Delaware corporation, duly authorized to conduct business in the State of California, maintaining a principal office and place of business at the Oakland International Airport, Oakland, Alameda County, California.

3. Defendant US AIRWAYS, INC., is a Delaware corporation, duly authorized to

1 conduct business in the State of California, maintaining a principal office and place of business
2 at the Oakland International Airport, Oakland, Alameda County, California.

3 4. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as
4 DOES 1 through 25, inclusive, and therefore sues these Defendants by such fictitious names.
5 Plaintiff will amend the complaint to allege their true names and capacities when ascertained.
6 Plaintiff is informed and believes, and therefore alleges that each of the fictitiously named
7 Defendants is lawfully responsible in some manner for the occurrences herein alleged, and that
8 Plaintiff's losses as herein alleged were proximately caused by such individual actions.

9 5. Plaintiff is informed and believes, and thereby alleges that each of the Defendants
10 herein was at all times relevant hereto the agent, employee, or representative of the remaining
11 Defendants and was acting within the scope and course of such relationship.

12 6. On or about March 30, 2003, Plaintiff was employed by said Defendants as a
13 Customer Service Representative at said location to perform the assigned duties thereof.

14 7. At all times during Plaintiff's said employment, she performed all of her assigned and
15 related duties in an excellent fashion.

16 8. Although Plaintiff at all times continued to perform all of the assigned and related
17 duties of her employment in an excellent fashion, Defendants initiated and maintained a
18 continuing pattern of unlawful discriminatory employment practices against her which included,
19 but were not limited to the denial of family leave culminating in the termination of her
20 employment effective on or about October 12, 2005.

21 9. As a direct and proximate result of said actions and conduct of said Defendants,
22 Plaintiff has suffered and continues to suffer damages as more particularly described below.

23 FIRST CAUSE OF ACTION

24 GOVERNMENT CODE SECTION 12940(a)

25 RACE DISCRIMINATION

26 As a first, separate and distinct cause of action, Plaintiff complains of Defendants and for
27

1 cause of action, alleges:

2 10. Plaintiff hereby incorporates by reference paragraphs 1 through 9, as though set forth
3 here in full.

4 11. Jurisdiction herein is invoked pursuant to the provisions of Government Code
5 Section 12965, seeking a declaratory judgment, injunctive relief and damages for violations of
6 the Plaintiff's employment rights as protected by the Fair Employment and Housing Act (FEHA),
7 Government Code Section 12940(a), which provides that it shall be unlawful for an employer to
8 discriminate against an employee, among other things, on account of race and color.

9 12. Plaintiff was an employee of African ancestry (Black) and is therefore a person
10 protected by said provisions of said Act.

11 13. Defendants have maintained a pattern and practice of unlawful discriminatory
12 employment practices against Plaintiff on account of her race and color by engaging in the
13 actions and conduct as alleged in Paragraph 8 hereof in violation of the Fair Employment and
14 Housing Act, Government Code Section 12940(a).

15 14. Defendants have taken the actions and conduct against Plaintiff as alleged herein on
16 account of her race and color in violation of the Fair Employment and Housing Act, Government
17 Code Section 12940(a).

18 15. As a direct result of said actions and conduct of Defendants as alleged herein,
19 Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related
20 employment benefits in an amount to be proven at trial herein.

21 16. In doing the acts and in engaging in the conduct herein alleged, Defendants intended
22 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional
23 distress incurring and continuing to incur medical expenses therefor.

24 17. Defendants committed the abusive actions alleged herein maliciously, fraudulently
25 and oppressively, with the wrongful intention of injuring Plaintiff and from an improper and evil
26 motive amounting to malice, and in conscious and reckless disregard of her rights as an
27

1 employee. Plaintiff is thus entitled to recover punitive damages from Defendant, commensurate
2 with their conduct as alleged herein.

3 18. Plaintiff duly filed an administrative charge of discrimination herein on May 19,
4 2006, with the California Department of Fair Employment and Housing (DFEH) which on
5 February 14, 2007, issued a notice of right to sue thereon authorizing Plaintiff to initiate a civil
6 action in the California Superior Court within one year of said date.

7 SECOND CAUSE OF ACTION

8 GOVERNMENT CODE SECTION 12940(a)

9 DISABILITY DISCRIMINATION

10 As a second, separate and distinct cause of action, Plaintiff complains of Defendants and
11 for cause of action, alleges:

12 19. Plaintiff hereby incorporates by reference paragraphs 1 through 18, as though set
13 forth here in full.

14 20. Jurisdiction herein is invoked pursuant to the provisions of Government Code
15 Section 12965, seeking a declaratory judgment, injunctive relief and damages for violations of
16 the Plaintiff's employment rights as protected by the Fair Employment and Housing Act (FEHA),
17 Government Code Section 12940(a), which provides that it shall be unlawful for an employer, to
18 discriminate against an employee, among other things, on account of physical disability.

19 21. Plaintiff suffered from a life altering physical disability.

20 22. Notwithstanding, Defendants have failed and refused to provide reasonable
21 accommodation to Plaintiff for said injury and subjected Plaintiff to a variety of unlawful
22 discriminatory employment practices because of such disability.

23 23. Defendants have maintained a pattern and practice of unlawful discriminatory
24 employment practices against Plaintiff on account of her disability by engaging in the actions and
25 conduct as alleged in Paragraph 8 hereof in violation of the Fair Employment and Housing Act,
26 Government Code Section 12940(a).

1 24. Defendants have taken the actions and conduct against Plaintiff as alleged herein on
2 account of her race and color in violation of the Fair Employment and Housing Act, Government
3 Code Section 12940(a).

4 25. As a direct result of said actions and conduct of Defendants as alleged herein,
5 Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related
6 employment benefits in an amount to be proven at trial herein.

7 26. In doing the acts and in engaging in the conduct herein alleged, Defendants intended
8 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional
9 distress incurring and continuing to incur medical expenses therefor.

10 27. Defendants committed the abusive actions alleged herein maliciously, fraudulently
11 and oppressively, with the wrongful intention of injuring Plaintiff and from an improper and evil
12 motive amounting to malice, and in conscious and reckless disregard of her rights as an
13 employee. Plaintiff is thus entitled to recover punitive damages from Defendant, commensurate
14 with their conduct as alleged herein.

15 28. Plaintiff duly filed an administrative charge of discrimination herein on May 19,
16 2006, with the California Department of Fair Employment and Housing (DFEH) which on
17 February 14, 2007, issued a notice of right to sue thereon authorizing Plaintiff to initiate a civil
18 action in the California Superior Court within one year of said date.

19 **THIRD CAUSE OF ACTION**

20 **DENIAL OF MEDICAL LEAVE FAMILY RIGHTS ACT**

21 **GOVERNMENT CODE SECTION 12945.2 and 19702.3**

22 As a third, separate and distinct cause of action, Plaintiff complains of Defendants and for
23 cause of action, alleges:

24 29. Plaintiff hereby incorporates by reference paragraphs 1 through 28, as though set
25 forth here in full.

26 30. Jurisdiction herein is invoked pursuant to the provisions of Government Code
27

1 Section 12965, seeking a declaratory judgment, injunctive relief and damages for violations of
2 the Plaintiff's employment rights as protected by the Fair Employment and Housing Act (FEHA),
3 Government Code Sections 12945.2 and 19702.3, the Family Rights Act.

4 31. Plaintiff was an employee of Defendants and as such was protected by the provisions
5 of said act.

6 32. As a result of injuries resulting in the disability alleged in paragraph 21, Plaintiff
7 sought medical leave therefor pursuant to the provisions of said Act, but was unlawfully denied
8 same on or about October 12, 2005, in violation of said Act resulting in the termination of her
9 said employment.

10 33. As a direct result of said actions and conduct of Defendants as alleged herein,
11 Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related
12 employment benefits in an amount to be proven at trial herein.

13 34. In doing the acts and in engaging in the conduct herein alleged, Defendants intended
14 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional
15 distress incurring and continuing to incur medical expenses therefor.

16 35. Defendants committed the abusive actions alleged herein maliciously, fraudulently
17 and oppressively; with the wrongful intention of injuring Plaintiff and from an improper and evil
18 motive amounting to malice, and in conscious and reckless disregard of her rights as an
19 employee. Plaintiff is thus entitled to recover punitive damages from Defendant, commensurate
20 with their conduct as alleged herein.

21 36. Plaintiff duly filed an administrative charge of discrimination herein on May 19,
22 2006, with the California Department of Fair Employment and Housing (DFEH) which on
23 February 14, 2007, issued a notice of right to sue thereon authorizing Plaintiff to initiate a civil
24 action in the California Superior Court within one year of said date.

25 PRAYER FOR RELIEF

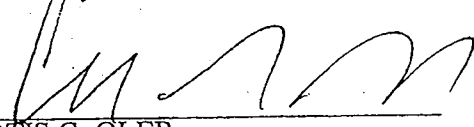
26 WHEREFORE, Plaintiff prays judgment against Defendants and each of them, as
27

1 follows:

- 2 a) Grant Plaintiff a declaratory judgment that Defendants have violated Plaintiff's rights
- 3 as guaranteed by the California Fair Employment and Housing Act (FEHA), California
- 4 Government Code Section 12900, *et seq.*, in committing the acts and in engaging in the conduct
- 5 complained of herein;
- 6 b) Permanently enjoin Defendants, their agents, successors, and employees and those
- 7 acting in concert with them from engaging in each of the unlawful practices and policies
- 8 complained of herein;
- 9 c) Award Plaintiff damages for all earnings and related employment benefits lost;
- 10 d) Reinstate Plaintiff to her said position or to a position commensurate with her skills
- 11 and abilities without loss of pay, seniority or rank;
- 12 e) Award Plaintiff damages for future earnings loss;
- 13 f) Award Plaintiff damages for lost career and employment opportunities;
- 14 g) Order that all negative material be removed from Plaintiff's personnel file, or any other
- 15 files or records maintained in connection with Plaintiff's employment;
- 16 h) Award Plaintiff compensatory damages for severe psychological harm in an amount to
- 17 be proven at trial;
- 18 i) Award Plaintiff punitive damages in an amount commensurate with harm caused to
- 19 Plaintiff and Defendant's financial ability;
- 20 j) Award Plaintiff costs of suit;
- 21 k) Grant Plaintiff reasonable attorney's fees; and
- 22 l) Grant Plaintiff such other and further relief as the Court may deem proper and just.

23 Dated: February 12, 2008

Respectfully submitted,

24 
 25 CURTIS G. OLER
 26 Attorney for Plaintiff
 27

If dual-filed with EEOC, this form may be affected by the Privacy Act of 1974.
CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING and EEOC

COMPLAINANT'S NAME (indicate Mr. or Ms.)
STEMLEY, CLARISE J

ADDRESS
155 Nova Albion #20
CITY STATE ZIP COUNTY COUNTY CODE
San Rafael CA 94903 Marin 041
TELEPHONE NUMBER (INCLUDE AREA CODE)
(415) 595-4392

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME
AMERICA WEST AIRLINE
ADDRESS
1 Airport Dr
CITY STATE ZIP COUNTY COUNTY CODE
Oakland CA 94621 Oakland 001
TELEPHONE NUMBER (INCLUDE AREA CODE)
(510) 563-3663

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))
☒ RACE ☐ SEX ☒ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☒ DENIAL OF FAMILY/MEDICAL LEAVE ☐ SEXUAL ORIENTATION
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ MEDICAL CONDITION (cancer or genetic characteristics) ☐ OTHER (SPECIFY)

NO. OF EMPLOYEES/MEMBERS DATE MOST RECENT OR CONTINUING DISCRIMINATION RESPONDENT
CODE 11000 TOOK PLACE (month, day, and year) October 11, 2005 45

THE PARTICULARS ARE:

- I. From December 2004 until October 11, 2005, I was subjected to discriminatory treatment. On or about October 12, 2005 I was terminated. I was hired on March 30, 2003. My position was Customer Service Representative and I earned \$11.02 per hour.
- II. Nelson Camacho, Supervisor informed me that I was terminated for job abandonment.
- III. I believe I have been subjected to discriminatory treatment and terminated because of my race (African American) and Disabilities (Chronic Pain, High Blood Pressure, and Stress) for the following reasons:
- A. I was denied a request that a non-African American was granted. Mr. Camacho often stated that I was "a strong Black woman," as well as frequent speeches about the "shoeshine man," and the "Black woman" who "worked as a janitor."
- B. My employer refused to accept medical information from my medical care providers and terminated my employment on October 12, 2005.

RECEIVED
MAY 19 2006

RETYPE AND MAILED May 12, 2006
I also want this charge filed with the Federal Equal Employment Opportunity Commission (EEOC).

declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 4/10/06
COMPLAINANT'S SIGNATURE

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1515 Clay Street, Suite 701, Oakland, CA 94612
(510) 622-2941 TTY (800) 700-2320 Fax (510) 622-2951
www.dfeh.ca.gov



February 14, 2007

CLARISE J STEMLEY
155 Nova Albion #20
San Rafael, CA 94903

RE: E2005061M1708-00-rpe/37AA608779
STEMLEY/AMERICA WEST AIRLINE

Dear CLARISE J STEMLEY:

NOTICE OF CASE CLOSURE

The consultant assigned to handle the above referenced discrimination complaint that was filed with the Department of Fair Employment and Housing (DFEH) has recommended that the case be closed effective February 14, 2007. Please be advised that this recommendation has been accepted.

Based upon its investigation, DFEH is unable to conclude that the information obtained establishes a violation of the statute. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this complaint.

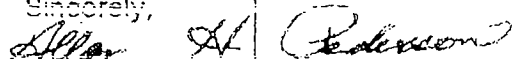
This letter is also your Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. This is also applicable to DFEH complaints that are filed under, and allege a violation of Government Code section 12946 which incorporates Civil Code sections 51, 51.7, and 54. The civil action must be filed within one year from the date of this letter. However, if your civil complaint alleges a violation of Civil Code section 51, 51.7, or 54, you should consult an attorney about the applicable statutes of limitation. If a settlement agreement has been signed resolving the complaint, it is likely that your right to file a private lawsuit may have been waived.

Notice of Case Closure
Page Two

This case may be referred to the U.S. Equal Employment Opportunity Commission (EEOC) for further review. If so, pursuant to Government Code section 12965, subdivision (d)(1), your right to sue will be tolled during the pendency of EEOC's review of your complaint.

Dfeh does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,


Allen H. Pederson
District Administrator

cc: Case File

Mia L. Belk
Assistant General Counsel
US AIRWAYS GROUP, INC.
111 W Rio Salado Parkway
Tempe, AZ 85281

Dfeh-200-08ew (06/06)
MBOOKERO

VERIFICATION

I, CLARISE J. STEMLEY, declare:

I have read the foregoing Plaintiff's Complaint and know the contents thereof. The same is true of my own knowledge, except for those matters stated therein on information and belief, and as to those, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed on February 12, 2008, at San Francisco, California.


CLARISE J. STEMLEY

EXHIBIT B

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND
DOES 1 THROUGH 25

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CLARISE JOYSTEMLEY

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

RECEIVED
FEB 14 2008
CLERK OF THE SUPERIOR COURT

FEB 14 2008

CLERK OF THE SUPERIOR COURT

[Signature]

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA
(El nombre y dirección de la corte es): COUNTY OF ALAMEDA
1225 FALLON STREET
OAKLAND, CALIFORNIA 94612

CASE NUMBER: **RG08371442**
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California. 94115

Telephone: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: **FEB 14 2008**
(Fecha)

FAT S. SWEETEN

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

America West Airlines Inc

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☒ by personal delivery on (date): **3-21-08**

(SEAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND
DOES 1 THROUGH 25

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CLARISE JOY STEMLEY

ENDORSED

ALAMEDA COUNTY

FEB 14 2008

CLERK OF THE COURT, COUNTY OF ALAMEDA

By: [Signature]

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

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Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA
(El nombre y dirección de la corte es): COUNTY OF ALAMEDA
1225 FALLON STREET
OAKLAND, CALIFORNIA 94612

CASE NUMBER: RG08371442
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115

Telephone: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: FEB 14 2008
(Fecha) PAT S. SWEETEN

Clerk, by _____ Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☒ by personal delivery on (date):

3-21-08

EXHIBIT C

HANSON BRIDGETT LLP
KEVIN REESE - 172992
kreese@hansonbridgett.com
JAHMAL T. DAVIS - 191504
jdavis@hansonbridgett.com
425 Market Street, 26th Floor
San Francisco, CA 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366

Attorneys for Defendants
AMERICA WEST AIRLINES, INC. and U.S. AIRWAYS,
INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

CLARISE JOY STEMLEY,

Plaintiff,

v.

AMERICA WEST AIRLINES, INC.; US
AIRWAYS, INC.; and DOES 1
THROUGH 25,

Defendant.

No. RG08371442

REQUEST FOR STATEMENT OF
DAMAGES PURSUANT TO CODE OF
CIVIL PROCEDURE § 425.11

Action Filed: February 14, 2008
Trial Date: not set

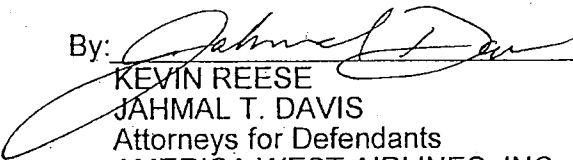
TO PLAINTIFF CLARISE JOY STEMLEY AND HER ATTORNEY OF RECORD:

Pursuant to Section 425.11 of the Code of Civil Procedure, Defendants AMERICA
WEST AIRLINES, INC. and U.S. AIRWAYS, INC., through their attorneys of record,
hereby request that you furnish a statement setting forth the nature and amount of
damages being sought in this action, **within 15 days** of the date of this Request and in
the manner required by law.

DATED: March 31, 2008

HANSON BRIDGETT LLP

By:


KEVIN REESE
JAHMAL T. DAVIS
Attorneys for Defendants
AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

- 1 -

REQUEST FOR STATEMENT OF DAMAGES PURSUANT TO CODE OF CIVIL PROCEDURE § 425.11

1442151.1

EXHIBIT C

PROOF OF SERVICE

Clarise Joy Stemley v. America West Airlines, Inc., et al.

Case No.: RG08371442

I, Joanne Leong, the undersigned, declare that I am a resident of the State of California. I am over the age of 18 years and not a party to the action entitled *Clarise Joy Stemley v. America West Airlines, Inc., et al.*; that my business address is 425 Market Street, 26th Floor, San Francisco, California 94105. On March 31, 2008, I served a true and accurate copy of the document(s) entitled:

REQUEST FOR STATEMENT OF DAMAGES PURSUANT TO CODE OF CIVIL PROCEDURE § 425.11

on the party(ies) in this action by placing said copy(ies) in a sealed envelope, each addressed to the last address(es) given by the party(ies) as follows:

Curtis G. Oler, Esq.
Law Offices of Curtis G. Oler
P.O. Box 15083
San Francisco, CA 94115
(415) 346-8015
(415) 346-8238 fax

Attorneys for Plaintiff
CLARISE JOY STEMLEY



(By Express Mail pursuant to Code of Civil Procedure section 1013.) I deposited each sealed envelope, with the postage prepaid, to be delivered via United States Postal Service, Express Mail to the party(ies) so designated on the service list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on March 31, 2008 at San Francisco, California.

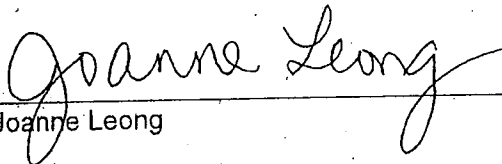

Joanne Leong

EXHIBIT D

CURTIS G. OLER (Bar No. 63689)
LAW OFFICES OF CURTIS G. OLER
Post Office Box 15083
San Francisco, California 94115
Telephone: 415 346-8015
Facsimile: 415 346-8238

Attorney for Plaintiff
CLARISE JOY STEMLEY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

CLARISE JOY STEMLEY,

Plaintiff,

vs.

AMERICA WEST AIRLINES, INC.;
US AIRWAYS, INC.; and
DOES 1 THROUGH 25,

Defendants.

NO. RG08371442

RESPONSE TO
STATEMENT OF DAMAGES

[CCP Section 425.11]

Complaint filed: February 14, 2008
Trial Date: Not yet set

TO DEFENDANTS AMERICA WEST AIRLINES, INC., US AIRWAYS, INC., AND
THEIR ATTORNEY OF RECORD:

The nature and amount of damages sought in the above entitled action are as follows:

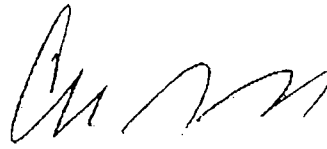
- | | |
|---|---------------------|
| 1. Loss of earnings | \$ 65,000.00 |
| 2. Future earnings loss | Not yet ascertained |
| 3. Damages for emotional pain and suffering | Not yet ascertained |
| 4. Punitive damages | Not yet ascertained |
| 5. Attorney's fees and costs | Not yet ascertained |

Response to Statement of Damages

1

EXHIBIT D

1 Dated: April 15, 2008



2
3
4 CURTIS G. OLER
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, CURTIS G. OLER, am over the age of 18 years and am not a party to the within action.
My mailing address is Post Office Box 15083, San Francisco, California.

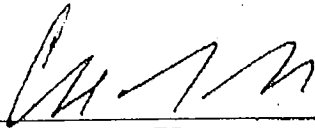
On April 16, 2008, I served the attached

Statement of Damages

by first class mail, postage thereon fully prepaid, sealed in an envelope and addressed as follows:

Jahmal T. Davis, Esq.
Hanson Bridgett
425 Market Street, 26th Floor
San Francisco, California 94105

I declare under penalty of perjury that the foregoing is true and correct and that this
Certificate of Service was executed on April 16, 2008, at San Francisco, California.



CURTIS G. OLER

EXHIBIT E

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

CURTIS G. OLER (Bar No. 63689)

LAW OFFICES OF CURTIS G. OLER

P. O. BOX 15083, SAN FRANCISCO, CALIFORNIA 94115

TELEPHONE NO.: 415 346-8015

FAX NO.: 415 - 346-8238

ATTORNEY FOR (Name): Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

STREET ADDRESS: 1225 Fallon Street

MAILING ADDRESS: Oakland, California 94618

CITY AND ZIP CODE:

BRANCH NAME:

CASE NAME: CLARISE JOY STEMLEY VS. AMERICA WEST

AIRLINES, INC., ET AL.

FILED
ALAMEDA COUNTY

FEB 14 2008

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

CASE NUMBER:

RG08371442

JUDGE:

DEPT:

CIVIL CASE COVER SHEET

Complex Case Designation

☒

Unlimited

☐ Limited

(Amount

demanded

exceeds \$25,000)

(Amount

demanded is

\$25,000 or less)

☐ Counter ☐ JoinderFiled with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

(Items 1-6 below must be completed (see instructions on page 2).)

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)☐ Product liability (24)☐ Medical malpractice (45)☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)☐ Civil rights (08)☐ Defamation (13)☐ Fraud (16)☐ Intellectual property (19)☐ Professional negligence (25)☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)☐ Rule 3.740 collections (09)☐ Other collections (09)☐ Insurance coverage (18)☐ Other contract (37)

Real Property

☐ Eminent domain/inverse condemnation (14)☐ Wrongful eviction (33)☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)☐ Residential (32)☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)☐ Petition re: arbitration award (11)☐ Writ of mandate (02)☐ Other judicial review (39)Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)☐ Antitrust/Trade regulation (03)☐ Construction defect (10)☐ Mass tort (40)☐ Securities litigation (28)☐ Environmental/Toxic tort (30)☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)☐ Other petition (not specified above) (43)2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:a. ☐ Large number of separately represented partiesb. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolvec. ☐ Substantial amount of documentary evidenced. ☐ Large number of witnessese. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal courtf. ☐ Substantial postjudgment judicial supervision3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): 3

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 14, 2008

CURTIS G. OLER
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

LAW OFFICES OF CURTIS G. OLER

Attn: Oler, Curtis G.

P. O. Box 15083

San Francisco, CA 94115

Superior Court of California, County of Alameda

Stemley

Plaintiff/Petitioner(s)

VS.

America West Airlines, Inc.

Defendant/Respondent(s)

(Abbreviated Title)

No. RG08371442

NOTICE OF CASE MANAGEMENT
CONFERENCE AND ORDER
Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 07/11/2008 Time: 09:15 AM	Department: 30 Location: U.S. Post Office Building Second Floor 201 13th Street, Oakland CA 94612 Internet: http://www.alameda.courts.ca.gov	Judge: Kenneth Mark Burr Clerk: Kathy McKean Clerk telephone: (510) 268-5104 E-mail: Dept.30@alameda.courts.ca.gov Fax: (510) 267-1510
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ORDERS

1. You must:

- Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
- Give notice of this conference to any party not included in this notice and file proof of service;
- Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
- File and serve a completed Case Management Conference Statement (use of Judicial Council Form CM 110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)

2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.

3. You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.

4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:

- Referring to ADR and setting an ADR completion date
- Dismissing or severing claims or parties
- Setting a trial date.

*Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 02/19/2008.

By



Deputy Clerk

Superior Court of California, County of Alameda



Notice of Judicial Assignment for All Purposes

Case Number: RG08371442
Case Title: Stemley VS America West Airlines, Inc.
Date of Filing: 02/14/2008

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

This case is hereby assigned for all purposes to:

Judge:	Kenneth Mark Burr
Department:	30
Address:	U.S. Post Office Building 201 13th Street Oakland CA 94612
Phone Number:	(510) 268-5104
Fax Number:	(510) 267-1510
Email Address:	Dept.30@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedure §170.6 must be exercised within the time period provided by law. (See Govt. Code 68616(i); Motion Picture and Television Fund Hosp. v. Superior Court (2001) 88 Cal.App.4th 488, 494; and Code Civ. Proc. §1013.)

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULE 3.135.

General Procedures

All pleadings and other documents must be filed in the clerk's office at any court location except when the Court permits the lodging of material directly in the assigned department. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO
JUDGE Kenneth Mark Burr
DEPARTMENT 30

Counsel are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at: <http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at www.courtinfo.ca.gov.

The parties are always encouraged to consider using various alternatives to litigation, including mediation and arbitration, prior to the Initial Case Management Conference. The Court may refer parties to alternative dispute resolution resources.

A courtesy copy of all filed briefs must be delivered directly to Department 30.

Schedule for Department 30

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions.

- Trials generally are held: Court Trials: Mondays through Thursdays at 9:45 a.m.
- Jury Trials: Mondays through Thursdays at 9:45 a.m.
- Master Trial Calendar: Fridays at 9:30 a.m.
- Case Management Conferences are held: Initial Case Management Conferences: Fridays at 9:15 a.m., 9:45 a.m., 10:45 a.m. and 11:15 a.m.
- Case Management Conference Continuances: Mondays through Thursdays at 9:15 a.m.
- Law and Motion matters are heard: Tuesdays and Wednesdays at 9:30 a.m.
- Settlement Conferences are heard: Fridays at 9:30 a.m., 10:00 a.m. and 10:30 a.m.
- Ex Parte matters are heard: Tuesdays and Thursdays at 9:00 a.m.
- For time-sensitive emergency applications, contact the Court by email to receive instructions on when the matter may be heard.

Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations
Email: Dept.30@alameda.courts.ca.gov

Reservations by email only.

- Ex Parte Matters
Email: Dept.30@alameda.courts.ca.gov

Reservations by email only.

Tentative Rulings

The court will issue tentative rulings in accordance with the Local Rule 3.30(c). Tentative

rulings will become the Court's order unless contested. Tentative rulings will be available at:

- Website: www.alameda.courts.ca.gov/domainweb, Calendar Information for Dept. 30
- Phone: 1-866-223-2244

Dated: 02/15/2008

Executive Officer / Clerk of the Superior Court

By



Deputy Clerk

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 02/19/2008

By



Deputy Clerk

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAORIGINAL
FILED

APR 18 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

CLARISE JOY STEMLEY,

Plaintiff (s),

v.

AMERICA WEST AIRLINES, INC.,

Defendant(s).

E-filing

No. C 08-02040 EMC

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable Edward M. Chen. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, the Notice of Assignment of Case to a United States Magistrate Judge for Trial, and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at www.adr.cand.uscourts.gov. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

CASE SCHEDULE -ADR MULTI-OPTION PROGRAM

Date	Event	Governing Rule
4/18/2008	Notice of removal filed	
7/2/2008	*Last day to: <ul style="list-style-type: none"> meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan file Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference 	<u>FRCivP 26(f) & ADR L.R.3-5</u> <u>Civil L.R. 16-8</u>
7/16/2008	*Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u>
7/23/2008	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom C, 15th Floor, SF at 1:30 PM	<u>Civil L.R. 16-10</u>

* If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**STANDING ORDER FOR CIVIL PRACTICE IN CASES
ASSIGNED FOR ALL PURPOSES TO
MAGISTRATE JUDGE EDWARD M. CHEN
(8/6/07)**

The parties shall follow the General Orders of the Court for the Northern District of California, the Local Rules, and the Federal Rules of Civil Procedure, except as expressly modified herein. Failure to comply with any of the rules and orders may be deemed sufficient grounds for monetary sanctions, dismissal, entry of default judgment, or other appropriate sanctions. The rules and orders are supplemented and modified as follows:

A. STANDING ORDER RE MOTIONS AND CONFERENCES

1. Criminal Law and Motion is heard on Wednesdays at 9:30 a.m. Civil Law and Motion is heard on Wednesdays at 10:30 a.m. Counsel need not reserve a hearing date in advance for civil motions. However, noticed dates may be reset as the Court's calendar requires.

2. Case Management Conferences are heard on Wednesdays at 1:30 p.m. Pretrial Conferences are heard on Wednesdays at 3:00 p.m.

3. In cases that are randomly assigned to Judge Chen for all purposes, the parties are requested to file their written consent to the assignment of a U.S. Magistrate Judge for all purposes, or their written declination of consent, as soon as possible.

4. All scheduling questions should be addressed to Judge Chen's courtroom deputy, Betty Fong, at (415) 522-2034.

5. Law and motion matters may be submitted without argument upon stipulation of the parties and notification of the Court no later than two (2) court days before the hearing.

6. In all "E-Filing" cases, when filing papers that require the Court to take any action (e.g. motions, meet and confer letters, administrative requests), the parties shall, in addition to filing papers electronically, lodge with chambers a printed copy of the papers on three-hole punch paper (including all exhibits) by the close of the next court day following the day the papers are filed electronically. These printed copies shall be marked "EMC Chambers Copy" and shall be submitted to the Clerk's Office in an envelope clearly marked with the case number, "Magistrate Judge Edward M. Chen," and "E-Filing Chambers Copy." Parties shall not file a paper copy of any document with the Clerk's

Office that has already been filed electronically. A proposed order in an E-Filing case must be emailed to emcpo@cand.uscourts.gov as a WordPerfect attachment on the same day that it is E-Filed. With permission, Chambers' copies of documents may be submitted on CD-ROM with hypertext links to exhibits.

7. The Court can no longer supply a court reporter. If you wish to have this hearing recorded by a court reporter rather than by electronic means, please arrange this privately.

B. STANDING ORDER RE DISCOVERY DISPUTES

This Standing Order applies to all disclosures and discovery motions assigned to Judge Chen and is intended to supplement the Civil Local Rules of this District regarding motion practice (Civil L. R. 7-1 et seq.) and the resolution of disclosure or discovery disputes (Civil L. R. 37-1 et seq.).

8. Discovery motions may be addressed to the Court in three ways. A motion may be noticed on not less than thirty-five (35) days notice pursuant to Civil L. R. 7-2. Alternatively, any party may seek an order shortening time under Civil L. R. 6-3 if the circumstances justify that relief. In emergencies during discovery events (such as depositions), the Court is available pursuant to Civil L. R. 37-1(b). In the event a discovery dispute arises, counsel for the party seeking discovery shall in good faith confer **in person** with counsel for the party failing to make the discovery in an effort to resolve the dispute without court action, as required by Fed. R. Civ. P. 37 and Civil L. R. 37-1(a). The meeting must be **in person**, except where good cause is shown why a telephone meeting is adequate. A declaration setting forth these meet and confer efforts, and the final positions of each party, shall be included in the moving papers. The Court will not consider discovery motions unless the moving party has complied with Fed. R. Civ. P. 37 and Civil L. R. 37-1(a).

9. Motions for sanctions shall be filed by separate motion in accordance with the Fed. R. Civ. P. 37 and Civil L. R. 37-3. The parties shall comply with their meet and confer obligations pursuant to Civil L. R. 37-1(a). Parties who refuse to meet and confer will be subject to sanctions pursuant to Civil L. R. 37-3.

10. Any party filing an Emergency or Ex Parte Application **must** contact Judge Chen's courtroom deputy clerk, Betty Fong, at 415/522-2034.

PRODUCTION OF DOCUMENTS

11. In responding to requests for documents and materials under Fed. R. Civ. P. 34, all parties shall affirmatively state in a written response served on all other parties the full extent to which they will produce materials and shall, promptly after the production, confirm in writing that they have produced all such materials so described that are locatable after a diligent search of all locations at which such materials might plausibly exist. It shall not be sufficient to object and/or to state that "responsive" materials will be or have been produced.

12. In searching for responsive materials in connection with a request under Fed. R. Civ. P. 34, parties must search computerized files, emails, voicemails, work files, desk files, calendars and diaries, and any other locations and sources if materials of the type to be produced might plausibly be expected to be found there.

13. Privilege logs shall be promptly provided and must be sufficiently detailed and informative to justify the privilege. *See* Fed. R. Civ. P. 26(b)(5). No generalized claims of privilege or work product protection shall be permitted. With respect to each communication for which a claim of privilege or work product is made, the asserting party must at the time of its assertion identify: (a) all persons making and receiving the privileged or protected communication; (b) the steps taken to ensure the confidentiality of the communication, including affirmation that no unauthorized persons have received the communication; (c) the date of the communication; and (d) the subject matter of the communication. Failure to furnish this information at the time of the assertion may be deemed a waiver of the privilege or protection.

14. To the maximum extent feasible, all party files and records should be retained and produced in their original form and sequence, including file folders, and the originals should remain available for inspection by any counsel on reasonable notice.

15. As soon as a party has notice of this order, the party shall take such reasonable steps as are necessary to preserve evidence related to the issues presented by the action, including, without limitation, interdiction of any document destruction programs and any ongoing erasures of emails, voicemails, and other electronically recorded material to the extent necessary to preserve information relevant to the issues presented by the action.

16. Except for good cause, no item will be received in evidence if the proponent failed to produce it in the face of a reasonable and proper discovery request covering the item, regardless of whether a motion to overrule any objection thereto was made.

DEPOSITIONS

17. Absent extraordinary circumstances, counsel shall consult in advance with opposing counsel and unrepresented proposed deponents to schedule depositions at mutually convenient times and places. Where an agreement cannot be reached as to any party deponent or

a deponent represented by counsel of record, the following procedure may be invoked by the party seeking any such deposition. The party seeking such a deposition may notice it at least twenty (20) days in advance. If the noticed date and place is unacceptable to the deponent or the deponent's counsel, then within ten (10) days or receipt of the notice, the deponent or counsel for the deponent must reply and counter-propose in writing an alternative date and place falling within twenty (20) days of the date noticed by the party seeking the deposition.

18. Counsel and parties shall comply with Fed. R. Civ. P. 30(d)(1). Deposition objections must be as to privilege or form only. Speaking objections are prohibited. When a privilege is claimed, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, such as the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information itself is itself privileged. Private conferences between deponents and attorneys in the course of interrogation, including a line of related questions, are improper and prohibited except for the sole purpose of determining whether a privilege should be asserted.

SANCTIONS

19. Failure to comply with this Order or the Local Rules of this Court may result in sanctions. See Fed. R. Civ. P. 16(f), Civil L. R. 1-4.
copy.



Edward M. Chen
United States Magistrate Judge

STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF
CALIFORNIA

CONTENTS OF JOINT CASE MANAGEMENT STATEMENT

Commencing March 1, 2007, all judges of the Northern District of California will require the identical information in Joint Case Management Statements filed pursuant to Civil Local Rule 16-9. The parties must include the following information in their statement which, except in unusually complex cases, should not exceed ten pages:

1. Jurisdiction and Service: The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and, if any parties remain to be served, a proposed deadline for service.
2. Facts: A brief chronology of the facts and a statement of the principal factual issues in dispute.
3. Legal Issues: A brief statement, without extended legal argument, of the disputed points of law, including reference to specific statutes and decisions.
4. Motions: All prior and pending motions, their current status, and any anticipated motions.
5. Amendment of Pleadings: The extent to which parties, claims, or defenses are expected to be added or dismissed and a proposed deadline for amending the pleadings.
6. Evidence Preservation: Steps taken to preserve evidence relevant to the issues reasonably evident in this action, including interdiction of any document-destruction program and any ongoing erasures of e-mails, voice mails, and other electronically-recorded material.
7. Disclosures: Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26 and a description of the disclosures made.
8. Discovery: Discovery taken to date, if any, the scope of anticipated discovery, any proposed limitations or modifications of the discovery rules, and a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f).
9. Class Actions: If a class action, a proposal for how and when the class will be certified.
10. Related Cases: Any related cases or proceedings pending before another judge of this court, or before another court or administrative body.
11. Relief: All relief sought through complaint or counterclaim, including the amount of any

damages sought and a description of the bases on which damages are calculated. In addition, any party from whom damages are sought must describe the bases on which it contends damages should be calculated if liability is established.

12. Settlement and ADR: Prospects for settlement, ADR efforts to date, and a specific ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key discovery or motions necessary to position the parties to negotiate a resolution.
13. Consent to Magistrate Judge For All Purposes: Whether all parties will consent to have a magistrate judge conduct all further proceedings including trial and entry of judgment.
14. Other References: Whether the case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.
15. Narrowing of Issues: Issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to bifurcate issues, claims, or defenses.
16. Expedited Schedule: Whether this is the type of case that can be handled on an expedited basis with streamlined procedures.
17. Scheduling: Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.
18. Trial: Whether the case will be tried to a jury or to the court and the expected length of the trial.
19. Disclosure of Non-party Interested Entities or Persons: Whether each party has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16. In addition, each party must restate in the case management statement the contents of its certification by identifying any persons, firms, partnerships, corporations (including parent corporations) or other entities known by the party to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.
20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

U.S. District Court Northern California

ECF Registration Information Handout

The case you are participating in has been designated for this court's Electronic Case Filing (ECF) Program, pursuant to Civil Local Rule 5-4 and General Order 45. This means that you **must** (check off the boxes ☒ when done):

- ☐ **1) Serve** this ECF Registration Information Handout on **all** parties in the case along with the complaint, or for removals, the removal notice. DO NOT serve the efiler application form, just this handout.

Each attorney representing a party must also:

- ☐ **2) Register** to become an efiler by filling out the efiler application form. Follow ALL the instructions on the form carefully. If you are already registered in this district, do not register again, your registration is valid for life on all ECF cases in this district.
- ☐ **3) Email** (do not efile) the complaint and, for removals, the removal notice and all attachments, in PDF format within ten business days, following the instructions below. You do not need to wait for your registration to be completed to email the court.
- ☐ **4) Access** dockets and documents using **PACER** (Public Access to Court Electronic Records). If your firm already has a PACER account, please use that - it is not necessary to have an individual account. PACER registration is free. If you need to establish or check on an account, visit: <http://pacer.psc.uscourts.gov> or call **(800) 676-6856**.

BY SIGNING AND SUBMITTING TO THE COURT A REQUEST FOR AN ECF USER ID AND PASSWORD, YOU CONSENT TO ENTRY OF YOUR E-MAIL ADDRESS INTO THE COURT'S ELECTRONIC SERVICE REGISTRY FOR ELECTRONIC SERVICE ON YOU OF ALL E-FILED PAPERS, PURSUANT TO RULES 77 and 5(b)(2)(D) (eff. 12.1.01) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

All subsequent papers submitted by attorneys in this case shall be filed electronically. Unrepresented litigants must file and serve in paper form, unless prior leave to file electronically is obtained from the assigned judge.

ECF registration forms, interactive tutorials and complete instructions for efilng may be found on the ECF website: <http://ecf.cand.uscourts.gov>

Submitting Initiating Documents

PDF versions of all the initiating documents originally submitted to the court (Complaint or Notice of Removal, exhibits, etc.) must be **emailed (not efiled)** to the **PDF email box for the presiding judge** (not the referring judge, if there is one) **within 10 (ten) business days** of the opening of your case. For a complete list of the email addresses, please go to: <http://ecf.cand.uscourts.gov> and click on **[Judges]**.

You must include the case number and judge's initials in the subject line of all relevant emails to the court. You do not need to wait for your registration to email these documents.

These documents must be emailed instead of e-filed to prevent duplicate entries in the ECF system. All other documents must be e-filed from then on. You do not need to efile or email the Civil Cover Sheet, Summons, or any documents issued by the court at case opening; note that you do need to efile the Summons Returned.

Converting Documents to PDF

Conversion of a word processing document to a PDF file is required before any documents may be submitted to the Court's electronic filing system. Instructions for creating PDF files can be found at the ECF web site: <http://ecf.cand.uscourts.gov>, and click on **[FAQ]**.

Email Guidelines: When sending an email to the court, the subject line of the email **must** contain the **case number, judge's initials** and the **type of document(s)** you are sending, and/or the topic of the email.

Examples: The examples below assume your case number is 03-09999 before the Honorable Charles R. Breyer:

Type of Document	Email Subject Line Text
Complaint Only	03-09999 CRB Complaint
Complaint and Notice of Related Case	03-09999 CRB Complaint, Related Case
Complaint and Motion for Temporary Restraining Order	03-09999 CRB Complaint, TRO

Questions

Almost all questions can be answered in our **FAQs** at **<http://ecf.cand.uscourts.gov>**, please check them first.

You may also email the ECF Help Desk at ECFhelpdesk@cand.uscourts.gov or call the toll-free ECF Help Desk number at: (866) 638-7829.

The ECF Help Desk is staffed Mondays through Fridays from 9:00am to 4:00pm Pacific time, excluding court holidays.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 **C08-02040 EMC**
4 NOTICE OF ASSIGNMENT OF CASE

5 TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL
6

7 Pursuant to General Order 44, the Assignment Plan of the United States District Court
8 for the Northern District of California, this case has been randomly assigned to Magistrate Judge
9 **EDWARD M. CHEN**

10 Pursuant to Title 28 U.S.C. § 636(c), with written consent of all parties, a magistrate
11 judge may conduct all proceedings in the case. Attached is a form to complete if you consent to
12 proceed before the assigned magistrate judge and a form to complete if you decline to proceed
13 before the assigned magistrate judge. Electronic versions of both forms are also available at the
14 Court's Internet site: <http://www.cand.uscourts.gov>. Click on Forms-Civil. A party is free to
15 withhold consent without adverse consequences. If a party declines to consent, the case will be
16 randomly reassigned to a district judge and a case management conference will be scheduled on
17 the district judge's calendar as close as possible to the date presently scheduled before the
18 magistrate judge.

19 You must file your consent or declination by the deadline for filing the initial case
20 management statement.

21 The plaintiff or removing party shall serve a copy of this notice and all attachments upon
22 all other parties to this action pursuant to Federal Rules of Civil Procedure 4 and 5.
23

24 FOR THE COURT
25 RICHARD W. WIEKING, CLERK
26 

27 By: Deputy Clerk
28

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CO8-02040

EMC

Plaintiff(s),

CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE JUDGE

v.

Defendant(s).

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. Section 636(c), the undersigned party hereby voluntarily consents to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment. Appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

Dated: _____

Signature _____

Counsel for _____
(Plaintiff, Defendant or indicate "pro se")

United States District Court

For the Northern District of California

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

608-02040 EMC

Plaintiff(s),

v.

Defendant(s).

DECLINATION TO PROCEED BEFORE
A MAGISTRATE JUDGE
AND
REQUEST FOR REASSIGNMENT TO A
UNITED STATES DISTRICT JUDGE

REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE

The undersigned party hereby declines to consent to the assignment of this case to a United States Magistrate Judge for trial and disposition and hereby requests the reassignment of this case to a United States District Judge.

Dated: _____

Signature _____

Counsel for _____
(Plaintiff, Defendant, or indicate "pro se")

United States District Court

For the Northern District of California

Case 3:08-cv-02040-TEH Document 3-4 Filed 04/22/2008 Page 15 of 17

WELCOME TO THE U.S. DISTRICT COURT, SAN FRANCISCO
OFFICE HOURS: 9:00 A.M. TO 4:00 P.M.
415.522.2000
www.cand.uscourts.gov

In Addition to the Local Rules, the Following Guidelines Have Been Provided to Ensure That the Filing Process Is Accomplished with Ease and Accuracy. For Additional Information or Assistance, Please Call the above Number During Office Hours.

1. Documents are to be filed in the Clerk's Office at the location of the chambers of the judge to whom the action has been assigned. We do not accept filings for cases assigned to judges or magistrate judges in the Oakland or San Jose division, per Civil L.R. 3-2(b).
2. This office will retain the original plus one copy of most documents submitted. We will conform as many copies as you bring for your use. Related cases require an extra copy for **each** related action designated.
3. The copy retained goes directly to the assigned Judge. Courtesy copies, or instructions for couriers to deliver a copy directly to chambers are inappropriate, unless you have been instructed to do so by court order.
4. In order to facilitate the file stamping process, each original document should be submitted on top of its copies. In other words, group like documents together--as opposed to a set of originals and separate sets of copies.
5. The case number must indicate whether it is a civil or criminal matter by the inclusion of **C** or **CR** at the beginning of the number. Miscellaneous and foreign judgment matters should also be indicated with initials **MISC** or **FJ** at the end of the case number.
6. The case number must include the initials of the judge and/or magistrate judge followed by the letters designating the case Arbitration (**ARB**), Early Neutral Evaluation (**ENE**) or Mediation (**MED**)--if assigned to one of those programs.
7. The document caption should include the appropriate judge or magistrate judge involved in a particular matter or before whom an appearance is being made. This is especially important when submitting Settlement Conference Statements.
8. Documents are to be stapled or acco-fastened at the top. Backings, bindings and covers are not required. Two holes punched at the top of the original document will facilitate processing.
9. Appropriately sized, stamped, self-addressed return envelopes are to be included with proposed orders or when filing documents by mail.

10. Proofs of service should be attached to the back of documents. If submitted separately, you must attach a pleading page to the front of the document showing case number and case caption.
11. There are no filing fees once a case has been opened.
12. New cases must be accompanied by a completed and signed Civil Cover Sheet, the filing fee or fee waiver request form and an original plus **two** copies of the complaint and any other documents. For Intellectual Property cases, please provide an original plus **three** copies of the complaint. Please present new cases for filing before 3:30 p.m., as they take a considerable amount of time to process.
13. Copies of forms may be obtained at no charge. They may be picked up in person from the Clerk's Office forms cabinet or with a written request accompanied by an appropriate sized, stamped, self-addressed envelope for return. In addition, copies of the Local Rules may be obtained, free of charge, in the Clerk's Office or by sending a written request, along with a self-addressed, 10" x 14" return envelope, stamped with \$ **3.95** postage to: Clerk, U.S. District Court, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102.
14. Two computer terminals which allow public access to case dockets and one terminal with information regarding files at the Federal Records Center (FRC) are located in the reception area of the Clerk's Office. Written instructions are posted by the terminals. Outside of the Clerk's Office, electronic access to dockets is available through PACER. To obtain information or to register call 1-800-676-6851.
15. A file viewing room is located adjacent to the reception area. Files may be viewed in this area after signing the log sheet and presenting identification. Files are to be returned by **1:00 pm**. Under no circumstances are files to be removed from the viewing room.
16. The Clerk's Office can only accept payment by **exact change or check** made payable to Clerk, U.S. District Court. No change can be made for fees or the public copy machine.
17. Two pay copy machines are located in the file viewing room for public use, at fifteen cents (\$.15) per page. Copy cards may be purchased at the snack bar on the first floor. Orders for copywork may be placed through Eddie's Document Retrieval by phoning 415-317-5556. Arrangements may be made to bring in a personal copier by calling the Clerk's Office in advance.
18. We have a drop box for filing when the Clerk's Office is closed. Please see attached for availability and instructions.

SAN FRANCISCO

Article III Judges	Judges Initials	Magistrate Judges	Judges Initials
Alsup, William H.	WHA	Chen, Edward M.	EMC
Breyer, Charles R.	CRB	James, Maria-Elena	MEJ
Chesney, Maxine M.	MMC	Laporte, Elizabeth D.	EDL
Conti, Samuel	SC	Larson, James	JL
Hamilton, Phyllis J.	PJH	Spero, Joseph C.	JCS
Henderson, Thelton E.	TEH	Zimmerman, Bernard	BZ
Illston, Susan	SI		
Jenkins, Martin J.	MJJ		
Patel, Marilyn Hall	MHP		
Schwarzer, William W	WWS		
Walker, Vaughn R	VRW		
White, Jeffrey S.	JSW		

SAN JOSE

Article III Judges	Judges Initials	Magistrate Judges	Judges Initials
Fogel, Jeremy	JF	Lloyd, Howard R.	HRL
Ware, James	JW	Seeborg, Richard	RS
Whyte, Ronald M.	RMW	Trumbull, Patricia V.	PVT

OAKLAND

Article III Judges	Judges Initials	Magistrate Judges	Judges Initials
Armstrong, Sandra B.	SBA	Brazil, Wayne D.	WDB
Jensen, D. Lowell	DLJ		
Wilken, Claudia	CW		